
OPINION OF THE PUBLIC ACCESS COUNSELOR

CHARLENE M. BROWN,
Complainant,

v.

CLARK TOWNSHIP ADVISORY BOARD,
Respondent.

Formal Complaint No.
18-FC-141

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Clark Township Advisory Board violated the Open Door Law.¹ Township Trustee Madonna Light filed an answer to the complaint on behalf of Clark Township. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on December 4, 2018.

¹ Ind. Code §§ 5-14-1.5-1 to -8

BACKGROUND

This case involves an alleged illegal meeting by the Clark Township Advisory Board. Charlene M. Brown (“Complainant”), a former consultant to the Township, asserts that the Clark Township Advisory Board and township trustee violated the Open Door Law (“ODL”) by holding an unnoticed meeting.

On November 8, 2018, two members of the Clark Township Advisory Board, the Trustee and her deputy, and Brown gathered at 1:00 p.m. to discuss purchasing a fire truck. A public meeting was properly scheduled for 2:00 p.m. Despite giving Brown assurances that the local newspaper was advised of the 1:00 start time, this was not the case as the newspaper notice clearly stated 2:00. It appears to have been the intention of the Trustee all along to have an unnoticed meeting at 1:00.

The Trustee responded to the formal complaint by asserting the 1:00 meeting was an executive session and she was under the (admittedly mistaken) impression that the fire truck purchase discussion qualified for an executive session.

ANALYSIS

1. The Open Door Law (ODL)

It is the intent of the Open Door Law (“ODL”) that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. *See* Ind. Code § 5-14-1.5-1. Accordingly, except as provided in section 6.1, the ODL requires all meetings of the governing bodies of public agencies to be open at all times to allow members of the public to

observe and record the proceedings. *See* Ind. Code § 5-14-1.5-3(a).

Clark Township is a public agency for purposes of the ODL; and thus, subject to the law's requirements. Ind. Code § 5-14-1.5-2. The Township Board is a governing body of the township for purposes of the ODL. *See* Ind. Code § 5-14-1.5-2(b). As a result, unless an exception applies, all meetings of the Township Board must be open at all times to allow members of the public to observe and record.

1.1 Executive Sessions

Executive sessions are the exception to the general rule of the Open Door Law that meetings must be open to the public. Indiana Code Section 5-14-1.5-6.1(b) presents the list of subject matters that qualify for executive sessions. Purchases of equipment or vehicles are not one of those enumerated subject matters.

1.2 Public Notice

As set forth above, Brown argues the Township provided no public notice for the council's executive session.

Under the ODL, the governing body of a public agency must give public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting at least 48 hours—excluding weekends and legal holidays—before the meeting as follows:

The governing body of a public agency shall give public notice by posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held.

Ind. Code § 5-14-1.5-5(b)(1). Executive sessions have an additional requirement under Indiana Code Section 5-14-1.5-6.1(d). Specifically, executive session notices must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held. This assures the public that even though a governing body can meet behind closed doors, they are only doing so under statutorily justified means.

CONCLUSION

Based on the foregoing, it is the opinion of the Public Access Counselor that the Clark Township Board met under defective notice and the Trustee acknowledges the mistake but coupled with assurances that the Open Door Law will be complied with in the future.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor